The Law of Interstate Placements of Children

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The interstate placement of children is a practice of obscure and virtually unexamined legality. In practice, courts and executive agencies, through their official decisions and informal concurrence, send children across state boundaries for placement in facilities and institutions far from their home communities. Basic questions concerning the legality of this practice appear to have been asked only infrequently. Do courts and executive agencies have authority to send children out of their home states? Even if legislatures have granted such authority, are there constitutional impediments to the practice? What certainty do sending states have that their out-of-state placement orders will be honored in receiving states? And what continuing legal control—beyond mere cessation of subsidies and payments—can a sending state exercise over a child in a receiving state? While the focus of this paper is on interstate placements by officials, it also provides a conspectus of the applicable law for attorneys representing children or families who may be affected by such placements, whether official or unofficial. It summarizes the legal basis on which interstate placements might be made or challenged.

The law of interstate placements easily divides itself into two parts. One part, considered in this article, includes court decisions and statutes that relate to interstate child placement practices. The other part is composed of those interstate compacts that attempt to give some regularity to the practices of interstate placements.[1] The use of compacts has been commented on extensively.[2]

Ohio law affecting interstate placements is broadly similar to the law of most other states. Like most jurisdictions, Ohio is a member of the Interstate Compact on the Placement of Children,[3] the Interstate Compact on Juveniles,[4] and the Interstate Compact on Mental Health.[5] Ohio also

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1. *See* COUNCIL OF STATE GOVERNMENTS, INTERSTATE COMPACTS 1783-1977 (1977): INTERSTATE COMPACT ON JUVENILES (delinquents who are either placed on probation or parole or runaway children who are being returned); INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN (children placed in certain types of out-of-state residential facilities); and MENTAL HEALTH COMPACT (interinstitutional transfers resulting from relocation of patients' families).

2. *Id.*; COUNCIL OF STATE GOVERNMENTS, THE LAW AND USES OF INTERSTATE COMPACTS (1976); M. RIDGEWAY, INTERSTATE COMPACTS (1971); R. LEACH & R. SUGG, JR., THE ADMINISTRATION OF INTERSTATE COMPACTS (1959).

3. OHIO REV. CODE ANN. §§ 5103.20-.28 (Page Supp. 1977).

4. OHIO REV. CODE ANN. §§ 2151.56-.61 (Page 1976).

5. OHIO REV. CODE ANN. §§ 5123.63-.66 (Page 1970).

has a child importation statute regulating the placement of children who are brought into the state for placement "in a family home or with an agency or institution."[6] And, like several other states, Ohio has a constitutional prohibition of the out-of-state transportation of persons for offenses committed in Ohio.[7] Ohio's law is unusual in one respect; it gives specific statutory authority for some interstate placements to the Ohio juvenile courts and the Ohio Youth Commission.[8] The statutes of most states do not expressly authorize interstate placements.

I. THE CONSTITUTIONAL SETTING OF INTERSTATE PLACEMENTS

Courts are increasingly being asked to rule on the legality of state practices that result in the placement of children from one state in institutions located in another. Specific constitutional issues raised include infringements of due process, equal protection, right to treatment, and first amendment associational interests. Several state constitutions contain provisions, not yet invoked in challenges to interstate placements, that might be applicable to official placements of delinquent or status offenders. Several state constitutions prohibit the out-of-state transportation of persons convicted of offenses within the states.

One recent case, *Gary W. v. Louisiana*,[9] resulted in the removal of all Louisiana youths who had been placed in Texas institutions. *Gary W.* was a class action brought on behalf of Louisiana children who either had been placed in Texas by the direct action of Louisiana state officials or whose placements were financially supported by the state government. The plaintiffs claimed that the Texas placements deprived them of treatment rights to which they were entitled under the Constitution and federal statutes, and further asserted that "the mere fact of their placement in out-of-state facilities is itself a denial of adequate treatment and therefore violates federal statutory and constitutional rights."[10]

To support their claim that out-of-state placements were illegal, the plaintiffs asserted that the "primary objective of institutional treatment must be the reintegration of children into their families and home communities . . .".[11]

> The family of a child placed in residential treatment in Louisiana has the opportunity to participate in the child's treatment program and life by visiting the child and having the child make day or overnight visits home. . . . When institutional care is required, it should be afforded near the parents' home; its goal must be the return of the child to the home; and

6. OHIO REV. CODE ANN. § 2151.39 (Page 1976).

7. OHIO CONST. art. 1, § 12.

8. OHIO REV. CODE ANN. §§ 2151.353-.355 (Page 1976); OHIO REV. CODE ANN. § 5139.06 (Page 1970 & Supp. 1977).

9. 437 F. Supp. 1209 (E.D. La. 1976).

10. *Id.* at 1213.

11. *Id.* at 1215.

> the placement of the child must be in accordance with the inexorable application of "least restrictive alternative": that is, the kind of treatment that is both nearest the home and imposes the least of all possible restrictions on the child's freedom.[12]

The *Gary W.* court decided the case on "right to treatment" principles, an evolving concept of constitutional law. Cases that concern the right to treatment are premised on due process and equal protection grounds and eighth amendment principles. Typically, the cases arise when the state exercises custodial powers over an individual and restricts his liberties. The statutory rationale underpinning the state's assumption of custodial powers is the individual's need for some type of treatment, rehabilitation, or therapeutic services. For the most part, the right to treatment cases involve mental patients, prisoners and institutionalized juveniles.[13]

When courts have held that individuals have a right to treatment the right has been approached as a *quid pro quo*: if the state justifies restrictions on an individual's liberties by his need for services, then the state must provide the needed services as long as the liberties are restricted. If the state does not or cannot provide the services, it loses its legal basis for restrictions upon liberty.[14]

The right to treatment is likely to take on interstate aspects when the sending state has very limited specialized treatment resources, or when neither the sending nor the receiving state can supply the required treatment. In an interstate right to treatment case, other peripheral issues, such as a court's or executive agency's legal authority to make such placements, are likely to overshadow the right to treatment issue.[15]

While the right to treatment has chiefly been used to procure appropriate treatment for an individual without regard to state boundaries, the *Gary W.* case was an attempt to use the principle to withdraw children from placements. Even though the *Gary W.* court granted the plaintiffs relief, it did not hold that the right to treatment, federal law, or the Constitution imposes a blanket prohibition on out-of-state placements. The *Gary W.* court held:

> What is required is that the state give thoughtful consideration to the needs of the individual, treating him constructively and in accordance with his own situation, rather than automatically placing in institutions, perhaps far from home and perhaps forever, all for whom families cannot care and all who are rejected by family or society.[16]

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12. *Id.*

13. *E.g.*, O'Connor v. Donaldson, 422 U.S. 563 (1975); Rouse v. Cameron, 373 F.2d 451 (D.C. App. 1966) (*amended* 1967); Wyatt v. Aderholt, 503 F.2d 1305 (5th Cir. 1974); Martarella v. Kelley, 349 F. Supp. 575 (S.D.N.Y. 1972); Wyatt v. Stickney, 325 F. Supp. 781 (D.C. Ala. 1971).

14. *Gary W. v. Louisiana*, 437 F. Supp. 1209, 1216 (E.D. La. 1976).

15. *See In re* Dennis M., 82 Misc. 2d 802, 370 N.Y.S.2d 458 (1975); State *ex rel.* F.D., 138 N.J. Super. 383, 351 A.2d 43 (1975); State *ex rel.* Juv. Dept. Multnomah County v. L., 24 Or. App. 257, 546 P.2d 153 (1976).

16. 437 F. Supp. at 1217.

The court rejected the plaintiffs' claims that legal principles forbade Louisiana officials from placing children in Texas institutions and required them to place children in their own communities.

> [T]he *a priori* thesis that Texas and all other states than Louisiana are tainted must be rejected. Each child must receive proper care wherever that child is placed. What is proper must be determined separately for each child based on that child's personal attributes and needs. What is proper for a particular child includes consideration not only of whether the child should be placed in an institution or treated in the community; it also includes consideration of the kind and geographic location of the institution or place of treatment.[17]

Throughout the *Gary W.* decision, interstate placements are described as affecting a child's relationship with his family and home community.[18] In interstate placements at a great distance, a geographic impediment is placed between a child and his family and friends. One early mention of a child's associational interests with his family and friends is suggested in *In re Gault*,[19] where the conditions that give rise to due process rights were found to include confinement in institutions that remove a child from "mother and father and sisters and brothers and friends and classmates."[20] Similarly, *Morales v. Turman*[21] criticizes the use of Texas juvenile institutions that remove juveniles great distances from their home communities.

The argument has been made that a person's relationship with family and friends is a constitutionally protected associational interest,[22] but the interest has not been found strong enough to preclude state action that disrupts a person's relationship with family and friends. Much court action, particularly in the juvenile area, necessarily involves interference with family relationships. Dependency and neglect statutes presume that a court must interfere with a child's family relationship for his own protection. Similarly, incarceration always interferes with an inmate's relationship with family and friends.

Another recent case, *Sinhogar v. Parry*,[23] tests the authority of New York officials to place youths in out-of-state facilities. The *Sinhogar* plaintiffs have alleged four constitutional defects in New York interstate placement practices. First, the particular placements constitute denials of

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17. *Id.* at 1219.

18. *Id.* at 1215, 1219.

19. 387 U.S. 1 (1967).

20. *Id.* at 27.

21. 383 F. Supp. 53, 115-18 (E.D. Tex. 1974), *rev'd on procedural grounds*, 535 F.2d 864 (5th Cir. 1976), *rev'd per curiam*, 430 U.S. 322 (1977).

22. *See* Sinnett v. Mountain Mission School, 1 FAM. L. REP. (BNA) 2170 (U.S.D.C. Western D., Va., Docket No. 75-0306 1975); Park v. Thompson, 356 F. Supp. 783, 789 (D.C. Hawaii 1973) (*citing with approval* Capitan v. Cupp, 356 F. Supp. 302 (D.C. Ore. 1972)); Rebideau v. Stoneman, 398 F. Supp. 805, 809, 814 (D.C. Vt. 1975).

23. No. 14138/77 (Sup. Ct., N.Y. County, filed July 26, 1977).

plaintiffs' right to treatment guaranteed by the fourteenth amendment;[24] second, to send plaintiffs to out-of-state facilities, away from family and community, without a hearing to determine the appropriateness of the placements violates the fourteenth amendment.[25] The third and fourth constitutional defects alleged by the plaintiffs are that the New York plaintiffs outside the State, and granting out-of-state placement hearings to delinquent youth but not to dependent children constitute a denial of equal protection.[26]

In addition to due process and equal protection claims, the plaintiffs' complaint challenges out-of-state placements because the institutions involved "are not authorized agencies as defined in Social Services Law § 371 (10),"[27] and "are not visited, inspected or supervised by the New York State Board of Social Welfare."[28] Other defects of the placements cited in the complaint include noncompliance of the out-of-state facilities with New York standards for child-care institutions, failure to assure that the programs are appropriate for each child's needs, and by implication, the discouragement of the development of appropriate facilities within New York. If ultimately decided on the basis of the New York statute, *Sinhogar* will transcend its precedential authority for New York and provide direction for understanding other states' statutes that authorize official placements.

A final constitutional issue that may influence interstate placements is found in special provisions of state constitutions. Several state constitutions prohibit the out-of-state transportation of persons convicted of offenses within the state.[29] In some states, a constitutional limitation is expressed in archaic terms of "outlawry," "banishment," or "exile."[30] No cases appear to have been brought to determine whether such provisions affect a court's or an executive agency's authority to place a child beyond state borders following a status or delinquency adjudication.

II. AUTHORITY FOR COURT-ORDERED OUT-OF-STATE PLACEMENTS

Most juvenile court statutes provide a wide range of dispositional options, irrespective of the type of adjudication. Typically, the court is given options ranging from home placements to institutional commitments. Equally typically, these dispositional alternatives are not

24. *Id.* at 18.

25. *Id.*

26. *Id.* at 19.

27. *Id.* at 17.

28. *Id.*

29. ILL. CONST. art. 1, § 11; NEB. CONST. art. 1, § 15; OHIO CONST. art. 1, § 12; OKLA. CONST. art. 2, § 29; TENN. CONST. art. 1, § 8; TEX. CONST. art. 1, § 20; VT. CONST. ch. 1, art. 21; W. VA. CONST. art. 3, § 5.

30. ALA. CONST. art. 1, § 30; ARK. CONST. art. 2, § 21; GA. CONST. art. 1, § 1; MD. CONST. art. 23; MASS. CONST. pt. 1, art. 12; N.H. CONST. pt. 1, art 15; N.C. CONST. art. 1, § 19.

identified by any geographical limitations restricting court placements to within state borders.

Can a court commit a youth to an out-of-state facility, absent specific statutory authorization? The few older court decisions on the question do not permit courts to make such out-of-state placements, while the more recent decisions tend toward construing court dispositional authority as broadly as possible in these situations. One 1947 Missouri case, *In re Church*,[31] held that a court could not commit a youth to an out-of-state institution under a statute that was ambiguous on the point. Similarly, a former Michigan statute was interpreted by the state attorney general not to authorize out-of-state placements.[32] Referring to the general powers of a court apart from a specific statute, one Pennsylvania court held that:

> the action of the [trial] court, in placing a child under the jurisdiction and subject to the laws of another state and in the control of an institution not responsible to the court making the order or the laws of this Commonwealth, cannot be sustained.[33]

More recently, courts that have decided cases under statutes as unspecific as those considered by the Michigan Attorney General and the *Church* court have taken a more expansive view of juvenile court placement authority. Three recent cases involving out-of-state placements broadly interpret judicial authority to make placements.[34]

The statutory authority to place a youth in "some other suitable place" is a dispositional power common to juvenile court laws. "Suitable" might be construed either to include or exclude out-of-state placements. Two cases have held that a juvenile court may make interstate placements under such broad statutory wording. In *Reyna v. Department of Institutions, Social and Rehabilitation Services*,[35] an Oklahoma court construed its statutory powers to place a dependent child "in custody of a suitable person elsewhere"[36] to give it authority to choose between homes in Texas and France. The court assumed, without examination, that a significant difference between the two competing placements was that Oklahoma would lose continuing supervisory jurisdiction over the child only if the placement were into the French home. The court nevertheless decided to place the child in the French home.

The second case involved a Georgia statute that permitted placements in other suitable places.[37] Georgia had also enacted the Uniform Juvenile

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31. 204 S.W.2d 126 (Mo. App. 1947).

32. 1946 OP. ATT'Y GEN. No. 0-4543 (Mich. 1946).

33. Commonwealth *ex rel.* Lembeck v. Lembeck, 83 Pa. Super. Ct. 305, 308, (1924).

34. State *ex rel.* D.F., 138 N.J. Super, 383, 351 A.2d 43 (1975); *In re* Dennis M., 82 Misc. 2d 802, 370 N.Y.S.2d 458 (1975); State *ex rel.* Juv. Dept. of Multnomah County v. L., 240 Or. App. 257, 546 P.2d 153 (1976).

35. 546 P.2d 622 (Okla. 1976).

36. OKLA. STAT. ANN. tit. 10, § 1116 (West 1966).

37. GA. CODE ANN. §§ 24A-2301 to 2302 (1976).

Courts Act, which has specific provisions authorizing out-of-state placements.[38] The court in *In re A.S.*[39] acknowledged that out-of-state placements could be made by a juvenile court under either statute.

A. *Statutes with Specific Geographic Limitations*

For the most part, dispositional statutes are silent on the question of geographic limitations; a few states, however, do have relevant laws that circumscribe the dispositional powers of juvenile courts in geographic terms. Indiana is unusual in limiting a court's dispositional powers to either institutions "incorporated or organized under the laws of the state,"[40] or to "child placing agencies in the state willing to receive such wardship."[41] The one exception to these geographic limitations is that an Indiana court is permitted to approve a public or charitable guardian's request for a change of a ward's residence to another state.[42] Although courts in certain other states may place children out of state, agencies having custody or guardianship may not do so without court approval. Statutory authority requiring juvenile court approval for out-of-state placements is found in Idaho, Utah, and Wyoming.[43] In these states, even if the juvenile court commits a youth to a private agency that later decides to place the youth out of state, the agency must return to the court and obtain its consent to the foreign placement.

B. *Statutes with Specific Authority to Place Out of State*

States that have enacted the Uniform Juvenile Courts Act, or variations on it, such as Georgia, Louisiana, North Dakota, and Tennessee, permit their courts fairly wide and detailed authority regarding out-of-state dispositions.[44] Portions of this Uniform Act attempt to address the problem presented when the family of a child who is under the court's jurisdiction plans to relocate to another state.[45]

The Uniform Act also permits a court to make out-of-state placements to a "suitable person in another state."[46] An interesting feature of this provision is that if the other state has also enacted the

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38. *Id.* § 24A-3003.

39. 140 Ga. App. 865, 232 S.E.2d 145 (1977).

40. IND. CODE ANN. § 21-5-2-1 (Burns 1975).

41. *Id.* § 31-5-7-15(2)-31-5-7-15(3).

42. *Id.* § 29-1-18-8. It is unclear from the wording whether this statute applies to all guardians appointed by Indiana courts, or merely to "probate" guardians. For a fuller discussion, see text accompanying notes 78-80 *infra*.

43. IDAHO CODE § 16-1814(3) (Supp. 1977); UTAH CODE ANN. § 78-3a-42 (1977); WYO. STAT. § 14-115.30(a)(vi)(Supp. 1975).

44. GA. CODE ANN. § 24A-1 to 40 (1976 & Supp. 1977); LA. REV. STAT. ANN. § 13:1561.1 (West 1976); N.D. CENT. CODE §§ 27-20-01 to 59 (1971); TENN. CODE ANN. §§ 27-201 to 281 (1973).

45. *E.g.*, GA. CODE ANN. § 24A-3001 (1976).

46. *E.g.*, LA. REV. STAT. ANN. § 13:1571.7 (West 1968).

Uniform Act, the sending court may request the juvenile court in the receiving state to assign a probation officer or other official to supervise the child in placement. The Uniform Act makes no reference to the use of interstate compacts. As a matter of practice, reciprocal supervision takes place in most states, irrespective of the adoption of the Uniform Act, usually through a compact, despite the authority of the courts under the Uniform Act to make such placements directly.

A third feature of the Uniform Act that may be applicable to out-of-state placements is the recognition given to receiving state probation officers and other officials to visit, counsel, control, direct, take into custody, and return children to the court of original jurisdiction.[47] This last provision of the Uniform Act is, in effect, a grant of comity for the discretionary decisions of the respective state probation officers.

A common statutory provision permits juvenile courts to place a youth out of state if the facility is licensed by an agency in the receiving state "analogous" to the agency which licenses such facilities in the sending state.[48] North Carolina permits its juvenile courts to place out of state when the placement will result in the return of a nonresident child to his home state.[49] Missouri juvenile courts are permitted to place a juvenile in an out-of-state association, school, or institution if the receiving state's agency that oversees the importation of children gives its approval.[50] Oregon has one of the more detailed statutes authorizing out-of-state dispositions. The Oregon statute permits such dispositions when there is an applicable interstate compact, an agreement with another state, or "an informal arrangement" with another state that permits the child to reside there while on probation or under protective supervision, or to be placed in an institution or with an agency in another state.[51]

III. EXECUTIVE AGENCY AUTHORITY TO MAKE OUT-OF-STATE PLACEMENTS

Like statutes that confer juvenile court powers, statutes that authorize local and state executive agency placements seldom mention geographical limitations. As an example, Nebraska's Department of Correctional Services is permitted to "use other public facilities or contract for the use of private facilities for the care and treatment of children in its legal custody."[52] Whether this language, typical of statutory descriptions of executive agency placement authority, permits out-of-state placements is

47. UNIFORM JUVENILE COURTS ACT §.

48. *E.g.*, IDAHO CODE § 16-1814(3) (Supp. 1977); NEV. REV. STAT. § 62.200(1)(b) (1972); OKLA. STAT. ANN. tit. 10, § 1116(a)(2) (West 1966).

49. N.C. GEN. STAT. § 7A-286(2)(c) (1967).

50. MO. REV. STAT. § 211.181(2)(c) (1976).

51. OR. REV. STAT. § 419.507 (1977).

52. NEB. REV. STAT. § 83-108.04 (1975).

not clear. Curiously, Nebraska has subsequent statutory language that seems to indicate that out-of-state placements are authorized, or at least not forbidden. Still referring to the Department of Correctional Services, the statute continues: "Placement of children in private or public facilities not under its jurisdiction shall not terminate the legal custody of the department."[53] This wording is ambiguous; the reference to "not under its jurisdiction" might signify geography or the Department's lack of authority over private facilities, or a division of authority among several state departments that share responsibility for children's services.

Another Nebraska statute that concerns the Department of Correctional Services refers specifically to placements out of state. In this statute, the Department is authorized to place a person in an institution "in another jurisdiction" or send him "to an out-of-state institution."[54] Whether these two phrases should be read *in pari materia* is not clear.

Geographic reference of laws that confer out-of-state placement authority on executive agencies may be clear or ambiguous. Louisiana and Vermont have ambiguous geographical references in their laws. In Louisiana, the Division of Youth Services, assigned to develop a regional system of child-caring institutions, is directed to establish them "in or near places in the state."[55] Vermont, with equal ambiguity, permits the Commissioner of Corrections (for delinquent children) and the Commissioner of Social and Rehabilitation Services (for children in need of supervision) to place children in "private or public agencies of the community where their assistance appears to be needed or desirable."[56]

Alaska and Connecticut have specific authority for executive agency out-of-state placements. Alaska's Department of Health and Social Services is empowered "to arrange for care of every child inside or outside the state."[57] Connecticut authorizes its Commissioner of Children and Youth Services to transfer children "to any appropriate resource or program administered or available to the department."[58] The Commissioner of Social Services is authorized to "make reciprocal agreements with other states and with agencies outside the state in matters relating to the supervision of the welfare of children."[59]

Michigan is unusual in that the executive department is authorized to make both interstate and international placements. The statute authorizes the department to "place a state ward in a public or private agency incorporated under the laws of another state or country and

53. *Id.*
54. *Id.* § 83-175.
55. LA. REV. STAT. ANN. § 15:1092 (West 1976).
56. VT. STAT. ANN. tit. 33, § 638 (1959).
57. ALASKA STAT. § 47.10.230 (1975).
58. CONN. GEN. STAT. § 17-420 (1975).
59. *Id.* § 17-32(g).

approved or licensed by the other state or country."[60] Missouri's Division of Youth is authorized to place out of state when it appears that plans for a child's rehabilitation have been made in some other state and that parents and the director of the Division have given their approval to such placement.[61]

Delaware's Division of Social Services is given limited out-of-state placement authority when it concludes that a dependent child is improperly placed. Although the statute is not specific, it appears that this power only applies to children who were brought into the state under its importation statute.[62] In other words, this authority is apparently only for replacement.

IV. EXTRATERRITORIAL RECOGNITION OF COURT DISPOSITIONAL ORDERS

Whether or not judges and other officials have specific statutory authority to make out-of-state placements, such placements are made. Beyond the basic question of authority to make these placements, other questions arise concerning their legal effect. Are sending-state orders enforceable in a receiving state? Must a receiving state accord recognition to subsequent orders from the sending state? These questions raise unresolved legal issues of comity and full faith and credit. In a recent case, *State ex rel. Juvenile Department of Multnomah County v. L.*,[63] the Oregon Court of Appeals brushed aside the question of out-of-state enforceability:

> Any question concerning the court's authority to exercise continuing jurisdiction over L by ordering her placement in the Chazen Institute [an out-of-state facility] is put to rest by the legislature's 1973 amendment to ORS 419.507 which provides:
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> "Commitment of a child to the Children's Services Division does not terminate the court's continuing jurisdiction to protect the rights of the child or his parents or guardians."[64]

Older cases, rather than ignoring jurisdictional questions and treating out-of-state placements as problems of statutory authorization, more directly addressed the issues of comity and full faith and credit.[65]

A. *Comity*

Comity is a legal principle that permits the courts of one jurisdiction

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60. MICH. COMP. LAWS § 25.399.54 (1967); *see also* ILL. REV. STAT. tit. 23, § 2226(a) (1967).

61. MO. REV. STAT. § 219.086 (1976).

62. DEL. CODE tit. 31, § 352 (1974).

63. 24 Or. App. 257, 546 P.2d 153 (1976).

64. *Id.* at 267, 546 P.2d at 159.

65. Commonwealth *ex rel.* Lembeck v. Lembeck, 83 Pa. Super. Ct. 305 (1924); Butler v. Butler, 83 N.H. 413, 143 A. 471 (1928).

to recognize and enforce rights created in another jurisdiction when there is no overriding reason for withholding such recognition. Rules of comity are made both by courts and legislatures. When legislatures statutorily define the recognition that courts may accord to out-of-state judgments, they have legislated rules of comity. One typical reason for not applying the principle of comity to a foreign judgment is that the foreign decree is inconsistent with the policy or substantive law of the enforcing jurisdiction. Another reason is simply that the decreeing court in the foreign state was without authority to render the judgment sought to be enforced. Comity is not based upon constitutional law, but is an outgrowth of common law and international law doctrines that define the inherent powers of courts and legislatures.[66]

Judicial comity in interstate placements is discussed in *Butler v. Butler*.[67] In that case a child was transferred by court order to an out-of-state third party, as part of a divorce proceeding. One of the child's parents challenged the order for want of statutory authority for out-of-state placements. The court rejected this challenge but considered whether the court might lose jurisdiction over a child who had been placed out of state:

> The hazards of ineffective enforcement arising from the mere change of a ward's residence to another state are not such as to prevent the court from giving fullest force and consideration to the child's greatest welfare, which, as we have seen, is always the paramount and determining factor . . . It is unnecessary to consider whether a decree for the custody of a minor . . . is a judgment within the protection of the full faith and credit clause of the Federal Constitution . . .; it is sufficient that, under the principles of comity customarily exercised among the states, the courts of each will give appropriate force to the official character of a custodian appointed in another state and recognize him, in the absence of changed conditions. . . .[68]

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66. 16 AM. JUR. 2D *Conflict of Laws* §§ 4-7 (1964); 14A C.J.S. *Conflict of Laws* § 3 (1974).

67. Butler v. Butler, 83 N.H. 413, 143 A. 471 (1928).

68. *Id.* at 415, 143A. at 473. *See also* Watkins v. Brannon, 54 Ala. App. 424, 309 So. 2d 464 (1974), *cert. denied*, 293 Ala. 778, 309 So. 2d 468 (1975). Commonwealth *ex rel.* Lembeck v. Lembeck, 83 Pa. Super. Ct. 305 (1924), involved an interstate placement similar to the placement in *Butler*. One of the parents challenged the order's legality on the basis "that the child has been committed to an institution not within the jurisdiction of the courts and that, therefore, the order is unauthorized and legally inoperative." The *Lembeck* court agreed with the parent:

> [T]he institution to which this child was committed is not subject to the jurisdiction of the court making the order. It is not bound to comply with the order, nor if it undertake so to do is it subject to the control or direction of the court with reference to the manner in which the appointment shall be exercised. The authority of every tribunal is restricted by the territorial limits of the state in which it is established and any attempt to exercise authority outside of those limits must be regarded as an illegal assumption of power; *Pennoyer v. Neff*, 95 U.S. 714. The child in this instance is in a sense a ward of the court; she is within the State of Pennsylvania; she is entitled to the protection which the laws of this State give her, and while the order was doubtless made wholly in the interest of the child and with regard to her welfare, the action of the court, placing her under the jurisdiction and subject to the laws of another state and in the control of an institution not responsible to the court making the order or the laws of this Commonwealth, cannot be sustained. As no tribunal established by this State

An example of comity legislation that is applidable to out-of-state placements of juveniles is the Uniform Child Custody Jurisdiction Act. A principle motivation for drafting this Act was the desire to reconcile the conflicting decisions that had developed in case law concerning the recognition of foreign child custody determinations generated by divorce and other post-marital disputes.[69]

The Act permits jurisdiction for child custody determination if: (1) the state in which the deciding court sits is the child's home state; (2) the child and other parties to the issues have a significant connection to the state and there is substantial evidence concerning the child's present or future care, protection, training, and personal relationships available in the state; (3) the child is present in the state and there is an emergency requiring the court to take action for his protection; or (4) no other state could take jurisdiction under the statute.[70]

The significance of this Act for out-of-state placements of children is that it provides an orderly set of rules of comity that will permit a sending state court to anticipate what recognition will be given to its orders affecting the custody of a child in out-of-state placement. Nineteen states have enacted this Uniform Act.[71]

Another statutory basis for the extension of comity to official placements can be found in child import/export statutes. These statutes, discussed in detail below,[72] are found in a majority of states. They effectively provide legislative grants of comity to court and executive agency interstate placements, although the case law does not acknowledge

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can extend its process beyond its own territory so as to subject persons to its decisions, the result of the order complained of is to place the child in an institution over whose management the committing court has no control and to remit the contending parents to a foreign jurisdiction for the determination of a question lawfully submitted to a court of competent jurisdiction."

Id. at 307-08.

The Lembeck decision is based on jurisdictional principles that have changed significantly since 1924. Shaffer v. Heitner, 433 U.S. 186 (1977); International Shoe Co. v. Washington, 326 U.S. 310 (1945). Absent some jurisdictional authority to make an interstate placement or to appoint an out-of-state custodian, however, *Lembeck* could yield the same result today as it did in 1924. Similarly, the *Butler* court's discussion of comity is still a valid statement of the applicable law. The decisions are interesting because, faced with questions concerning interstate placements, the two courts, applying different principles, reached contradictory conclusions regarding the legality of the placements. In the forty years since the two decisions, there has been no definitive resolution of the jurisdictional questions faced by those courts.

69. B. Bodenheimer, *The Uniform Child Custody Jurisdiction Act*, 3 FAM. L. Q., 304-16 (1969). The text of the Act can be found at 317-30 following the article.

70. UNIFORM CHILD CUSTODY JURISDICTION ACT § 3.

71. ALASKA STAT. §§ 25.30.010-.910 (1975); CAL. CIV. CODE §§ 5150.01-.74 (West 1962); COLO. REV. STAT. §§ 14-13-101 to 126 (1973); DEL. CODE tit. 13, §§ 1901-1925; FLA. STAT. ANN. §§ 61.1302-.1348 (West 1969); HAW. REV. STAT. §§ 583-1 to 26 (1976); IDAHO CODE §§ 5-1001 to 25 (1967); IND. CODE ANN. §§ 31-1-11.6-1 to 24 (Burns 1975); IOWA CODE §§ 598A.1-.25 (1971); MD. ANN. CODE art. 16, §§ 164-207 (1973); MICH. COMP. LAWS §§ 27A.651-.673 (1967); MINN. STAT. §§ 518A.01-.25 (1960); MONT. REV. CODE ANN. § 48-331 (1961); N.D. CENT. CODE §§ 14-14-01 to 26 (1971); OHIO REV. CODE ANN. §§ 3109.21-.37 (Page Supp. 1977); OR. REV. STAT. §§ 109.700-.930 (1977); PA. CONS. STAT. tit. 11, §§ 2301-2325 (1969); WIS. STAT. §§ 822.01-.25 (1977); WYO. STAT. §§ 20-143 to 167 (1977).

72. *See* text accompanying notes 86-108 *infra*.

that function. The clearest example is the Wyoming importation statute, which is applied to every "person, firm, partnership, corporation, state or political subdivision or agency thereof," bringing or sending children into Wyoming.[73] For interstate placement decisions to be recognized in Wyoming, officials in other states must only comply with Wyoming's notice and reporting requirements. Wyoming is unusual in its specific reference to governmental placements.

A few other state importation laws contain language that might permit specific recognition of other states' official placements. The Delaware statute is applied to "[a]ny person, institution, agency, association, corporation, bureau, board or commission outside Delaware."[74] The Oregon statute is applied to a "person, agent, agency or institution of another state."[75] South Dakota applies its law to agencies "operating under the laws of another state."[76] Most import/export laws, however, are ambiguous in their applicability to official interstate placements.

Another area in which rules of comity affect interstate placements is the recognition accorded guardians appointed in sister states. Comity in this area is a mix of common law and statutes. While the development of comity principles that apply to guardians and wards has occurred independently of the import/export statutes, in most states both sets of comity principles may be equally applicable to interstate placements. This is likely because the parties concerned with interstate placements will typically have guardian status of one sort or another. The difficulty in determining whether to apply the guardianship comity rules in an interstate placement arises from the diverse meanings attached to the phrases "guardian and ward" and "ward of the court."

In most states, a youth can become a "ward" by court order following either of two judicial procedures. One process is application to a probate court by a third party for letters of guardianship. Typically, these applications are special statutory proceedings independent of delinquency, status offense, neglect, or dependency proceedings. A second court process that results in the appointment of a guardian for a child can follow juvenile court proceedings. Typically, an adjudicated delinquent or dependent child is referred to as a "ward of the court" and the person or facility receiving custody of the child is called his "guardian."

The rights and duties that are imposed on a guardian for the care and custody of a child under either process are probably not significantly different (except as they relate to liability for costs of maintenance of the child and conservancy of his estate). It is not clear, however, whether the

73. WYO. STAT. § 14-4-109 (1977).
74. DEL. CODE tit. 31, § 307 (1974).
75. OR. REV. STAT. § 418.290 (1977).
76. S.D. COMPILED LAWS ANN. § 26-6-10 (1976).

recognition accorded the guardianship of wards placed out of state is identical for appointments under each procedure.

One case, *Pfotenhauer v. Hunter*,[77] indicates when a court will recognize a guardianship created in another state. After denying the applicability of an interstate compact as a vehilce for returning the ward to Nevada, the Oklahoma Supreme Court observed, in dicta, that:

> Petitioner [the guardian] voluntarily invoked the jurisdiction of the Nevada Court, she sought and obtained letters of guardianship and accepted the trust and responsibility the Court reposed in her to faithfully execute her duties as guardian. She is now estopped from denying that jurisdiction which she invoked. . . . Neither is Petitioner able to divest that court of jurisdiction over the guardianship by removing herself and the child from the territorial limits and refusing to return because her removal from Nevada was fraudulent.[78]

When an out-of-state facility accepts a placement from a court and is appointed guardian, the principle suggested by the Oklahoma Court might be applicable to subject the facility, as guardian, to orders from the sending court: the guardian's voluntary acceptance of the court's appointment enables the court to continue its jurisdiction after the child has left the state.[79] This principle of voluntary consent has only been applied in probate guardianship cases. Its application to cases of guardians appointed by courts following adjudications of delinquency, status offenses, dependency, or neglect would clearly establish the ability of the sending state to control out-of-state guardians.

B. *Full Faith and Credit*

Another principle that promotes extraterritorial recognition of out-of-state placement orders is the full faith and credit clause of the United States Constitution. The clause, however, requires recognition and enforcement of a sister state judgment only to the extent that the rendering court had jurisdiction over the parties and subject matter when the decree was made, that the court satisfied the requirements of due process, and that the judgment rendered was a final order.[80]

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77. 536 P.2d 923 (Okla. 1975).

78. *Id.* at 928.

79. The jurisdiction principal of *Pfotenhauer* has been codified for guardianship appointments in some states. *See, e.g.*, ARIZ. REV. STAT. § 14-5208 (1975) and NEB. REV. STAT. § 30-2612 (1975). Both of these statutes specify that by accepting an appointment, a guardian "submits personally to the jurisdiction of the court in any proceeding relating to the guardianship that may be instituted by any interested person." A Committee comment following the Nebraska statute explains the rationale for the statute:

> The "long-arm" principle behind this section is well established. It seems desirable that the court in which acceptance is filed be able to serve its process on the guardian wherever he has moved. The continuing interest of that court in the welfare of the minor is ample to justify this provision. The consent to service is real rather than fictional in the guardianship situation when the guardian acts voluntarily in filing acceptance.

80. U.S. CONST., art. 4, § 1; *see generally* 16 AM. JUR. 2D *Constitutional Law* §§ 585-91 (1964).

The requirement of finality is especially significant because the majority of out-of-state placements may not be final decisions. Juvenile courts normally regard their jurisdiction as continuing throughout the period of placement; thus, the full faith and credit clause might not require enforcement by a receiving state of a sending state's initial placement order.[81]

A major problem inherent in the application of full faith and credit to juvenile cases is that the principle is inapplicable to the enforcement of another jurisdiction's penal judgments.[82] Because it is unclear whether juvenile court judgments are criminal or civil, or whether they create penalties or duties, benefits or rights, it is problematic whether out-of-state enforcement of juvenile judgments could be compelled by the full faith and credit clause.

C. *Long-Arm Statutes*

"Long-arm" statutes permit courts to acquire personal jurisdiction over parties outside the boundaries of a state when the cause of action arises from the parties' activities within the state. Typical events that activate long-arm jurisdiction are contract formation and tortious conduct.[83]

In the context of interstate placement, long-arm jurisdiction might be asserted over agreements between a sending agency and a receiving facility concerning financial arrangements, notice requirements for changes in circumstances, and methods for the return of children to the sending state.[84] If such an agreement is approached as an ordinary contract, it should be enforceable by a court of general jurisdiction. If the contract were used to effect an out-of-state placement, a long-arm statute might give a court in the sending state jurisdiction over enforcement of the contractual terms.[85]

The difficulty is that a contract for the transfer of physical custody over a child might not be viewed by a court as an ordinary contract. It is not clear whether courts of general jurisdiction would accept a suit for breach of a placement agreement because it sounded in contract, or shunt the case to a juvenile court because custody of a juvenile was at issue.

There is also a problem of applying contract remedies to breach of child-care agreements. In the case of a sending agency trying to enforce such contractual terms as "standards of care" or "return of custody,"

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81. *See* RESTATEMENT (SECOND) OF CONFLICT OF LAWS § 109 (1971); RESTATEMENT OF JUDGMENTS § 41, comment a (1942); RESTATEMENT (SECOND) OF JUDGMENTS § 41, comments a,c, d & f (Tent. Draft No. 1, 1973).

82. RESTATEMENT (SECOND) OF CONFLICT OF LAWS § 120 (1971).

83. *E.g.*, ALASKA STAT. § 09.05.015 (1976).

84. For an example of a typical placement contract, see S.F. KATZ, WHEN PARENTS FAIL 94 (1971).

85. *E.g.*, ILL. REV. STAT. ch. 110, § 17 (1968).

money damages would clearly be inappropriate, and courts might hesitate on policy grounds to order specific performance.

V. ADMINISTRATIVE REGULATION OF INTERSTATE PLACEMENTS: IMPORT/EXPORT STATUTES

State codes commonly regulate the importation and exportation of children.[86] These statutes are important because they regulate interstate placements to which the various interstate compacts do not apply, as when one or both of the participating states does not subscribe to the compact, or when the characteristics of the placement put it beyond the reach of the compacts but within the scope of these import/export statutes.[87] The import/export statutes are also important because their penalty provisions may be extended to compact violations.[88]

The import/export statutes express legislative awareness of the problems of sending children across state lines; as rules of comity for court and administrative placements, they establish methods for regularizing such placements and assuring comparable state involvement in interstate and intrastate placements. They also appear to be alternatives to the Interstate Compact on the Placement of Children and the Interstate Compact on Juveniles for regulating some interstate placements of children. In the absence of court decisions construing these laws, it is not possible to conclude whether they are congruent with the compacts. The lack of decisional law suggests that the import/export statutes are not used extensively.

Typically, the statutes describe the regulated activity as "importation of" and "exportation of" or "bringing or sending into" and "taking or sending out" children. These particular words were probably used in lieu of "immigration" or "emigration" because the laws are not directed at the children but to the activities of their custodians. A few states have recently adopted the phrase "interstate placement" to describe the type of activity

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86. ALA. CODE tit. 38, § 38-7-15 (1975); ARIZ. REV. STAT. § 8-503 (1975); CONN. GEN. STAT. § 17-51 (1975); DEL. CODE tit. 31, § 307 (1974); GA. CODE ANN. § 99-215 (1976); IND. CODE ANN. § 12-3-21-1 to 4 (Burns 1975); KAN. STAT. § 38-315 (1973); KY. REV. STAT. § 199.400 (1975); MASS. GEN. LAWS ANN. ch. 119, § 36 (West 1973); MINN. STAT. § 257.05-.06 (1960); MO. REV. STAT. § 210.010 (1976); MONT. REV. CODE ANN. § 71-711 (1961); NEB. REV. STAT. §§ 43-704 to 709 (1975); N.H. REV. STAT. ANN. § 170-B:24 (1961); N.J. REV. STAT. §§ 9:7-1 to 6 (1970); N.Y. SOC. SERV. LAW § 382 (McKinney 1976); N.C. GEN. STAT. §§ 110-50 to 55 (1972); N.D. CENT. CODE § 40-12-14.1 (1971); OHIO REV. CODE ANN. § 2151.39 (Page 1976); OKLA. STAT. ANN. tit. 10, § 33 (West 1966); OR. REV. STAT. § 415.090 (1977); PA. CONS. STAT. tit. 62, §§ 741-745 (1969); R.I. GEN. LAWS § 15-7-3 (1969); S.C. CODE § 71-207 (1976); S.D. COMPILED LAWS ANN. § 26-6-10 (1976); TENN. CODE ANN. §§ 14-1505 to 1509 (1973); W. VA. CODE § 49-2-15 (1976); WIS. STAT. ANN. § 48.98 (1977); WYO. STAT. § 14-52.8 (1977).

87. So-called grey market adoptions and other placements are sometimes consciously designed to minimize or avoid interaction with the official child-care apparatus.

88. *E.g.*, MASS. GEN. LAWS ANN. ch. 119, § 2-1 (West 1973), is the provision of the Placement Compact that incorporates by reference other state statutory penalties. The referenced statute, MASS. GEN. LAWS ANN. ch. 119, § 36 (West 1973), is a general law penalty provision for failure to follow the importation statute's procedures.

regulated in these statutes,[89] which suggests that import/export statutes and interstate placement statutes may cover the same types of activity.

Typical regulatory techniques in the import/export statutes include performance bonds; licensing, inspection and reporting requirements by receiving agencies; and specific prohibitions against the importation of certain types of children. The statutes reflect legislative concern that the state child-care apparatus be accessible to all children in the state, regardless of their geographical origin.[90]

A. *Importation*

By far the most common regulatory statute circumscribes the importation of children. While the scope of these laws is usually limited to adoption, the import statutes are discussed here because the meaning of the phrase "placement for adoption" is ambiguous. The legal meaning of "placement for adoption" could be based on the intent of the party placing a child or of the receiving party; it might be based on the child's legal status or his relationship with his parents; or it could refer to the legal relationship between a placed child and the placing custodian.

In many "placement for adoption" statutes, the place is not

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89. GA. CODE ANN. § 99-211(b)(3) (1976); WIS. STAT. § 48.98 (1977).

90. Alabama's statute typifies the techniques of regulation found in import statutes:

> (a) No person or agency shall bring or send any child into the state of Alabama for the purpose of placing him or procuring his adoption or placing him in any child-care facility, as defined herein, without first obtaining the consent of the department. The department shall have the power to impose and enforce reasonable conditions precedent to the granting of such consent. Such conditions shall be for the purposes of providing the same care and protection for the child coming into the state of Alabama for placement or adoption as are afforded to a child who is born in the state of Alabama. . . .

ALA. CODE tit. 38, § 38-7-15 (1975). The statute enumerates conditions that give the department authority to inspect proposed adoptive parents' and foster parents' homes and to receive information about the child from out-of-state agencies, then proceeds to regulate other placements:

> (5) The department shall be authorized to make a thorough investigation of any child-care facility to which any child is being brought or sent to determine conformity to minimum standards prescribed herein for approval or licensing and to determine the suitability of such child-care facility for the care, supervision, training and control of said child;
>
> (6) in case said child, subsequent to being brought into the state of Alabama, becomes dependent, neglected, or delinquent prior to his adoption or becoming of legal age of majority, said child shall be subject to the laws of the state of Alabama as if he were a resident of the state;
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> (7) the child will be placed in conformity with the rules and regulations of the department;
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> (8) the person with whom the child is placed shall be responsible for his proper care and training;
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> (9) the department shall have the right of visitation and supervision of the child and the home or the child-care facility in which he is placed until adoption becomes final or the child becomes 18 years of age;
>
> (10) the department may, pursuant to the provisions of this chapter, prescribe the conditions of an agreement or contract with the designated out-of-state agency, when a child is brought into the state of Alabama.
>
> (b) The person or agency receiving the child in Alabama shall report to the department at such reasonable times as the department may direct, as to the location and well-being of the child, so long as he shall remain within the state and until he shall have reached the age of 18 years or shall have been legally adopted.

Id.

mentioned; it might be an orphanage, a group home or a family home.[91] In the case of a placement into a family home, when all of the parties agree that a child will remain in the home and be adopted, and an adoption actually occurs, the situation is readily understood to be a "placement for adoption," based on the intent of the participating parties. When a child is placed in an orphanage or a group home, however, the intent might be to place the child only until adopting parents can be found or until an adoption actually takes place. The South Carolina Attorney General has interpreted that state's import law to apply to placements subsequent to the termination of parental rights "regardless of whether, where or when an adoption proceeding is actually begun."[92]

State legislatures used varied language to describe the kinds of importation placements that are regulated. In the absence of case law, the scope of the several statutes can be compared only on the basis of the statutory language. Among the twenty-nine states that have importation statutes,[93] there are sixteen different descriptions of the regulated placements ranging from the very broad ("for care or supervision")[94] to the specific (placement in a "family home").[95]

The various phrasings of the import statutes uniformly indicate legislative intent to regulate broad ranges of individuals. A typical phrasing includes within the statutory coverage "any person, corporation, association or institution."[96] It is likely, despite different wording, that the import statutes all reach similar groups of individuals.

A few statutes specifically assert their applicability to placements by officials of other states.[97] Other child importation statutes contain qualifications limiting applicability to specified categories of sending agencies. Kansas, Missouri, and Nebraska limit the application of their importation statute to "associations incorporated in another state."[98] By implication, unincorporated associations, unincorporated child-care organizations, parents or officials do not come within the coverage of these statutes.

Most of the importation statutes exclude from coverage interstate placements by relatives, relatives by blood or marriage, or relatives with specified degrees of kinship or relationship.[99] North Dakota excludes

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91. *E.g.*, GA. CODE ANN. § 99-215 (1976).

92. 1970-71 OP. ATT'Y GEN. No. 3217 (S.C. 1970-71).

93. *See* note 86 *supra.*

94. ILL. REV. STAT. § 17-51 (1968).

95. OR. REV. STAT. § 418.290 (1977).

96. IND. CODE § 12-3-21-1 (1975).

97 *See* notes 70-72 *supra.*

98. KAN. STAT. § 38-315 (1973); MO. REV. STAT. § 210.010 (1976); NEB. REV. STAT. § 43-704 (1975).

99. *E.g.*, IND. CODE § 12-3-21-5 (1975) ("relatives"); MASS. GEN. LAWS ANN. ch. 119, § 36 (West 1973) ("blood or marriage"); MINN. STAT. § 257.05(2) (1960) (specified relatives).

from regulation placements by relatives or guardians, provided the guardian is not an agency.[100] New Jersey excludes placements with relatives in their own home, but if an interstate child is subsequently replaced, the normal import regulations apply.[101] Connecticut excludes placements to any summer camp operating less than 90 days, and to any educational institution.[102]

B. *Exportation*

The export statutes, like their more numerous import counterparts, regulate diverse activities. Again, in the absence of case law, it is possible that the activities reached by the export statutes may actually be broader than is apparent from the statutory phrasing. The activities regulated in the statutes are described as exportation "for adoption,"[103] "to place in a family home,"[104] "to place in a foster home or in a child-caring institution,"[105] and "for foster care placement."[106]

As with the importation statutes, different categories of individuals are regulated or excluded from regulation by the exportation statutes. Florida requires everyone except "an agency or the department" to comply with its exportation requirements;[107] Minnesota excludes only parents and guardians from exportation regulation; Nebraska also excludes persons with a "right to dispose" of a child.[108]

VI. CONCLUSION

The interstate placement of children is a common practice that has not been closely scrutinized by courts or legislatures. Apart from interstate compacts,[109] development of a body of law to control official and unofficial out-of-state placements has been rudimentary.

Recent fourteenth amendment challenges to out-of-state placements reflect the contemporary concern for individual rights of juveniles. Complex issues of due process and equal protection have been raised, including right to treatment and right of association.[110]

Most statutory authority for court or executive agency placements of children does not mention geographic limitations. A few states have

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100. N.D. CENT. CODE § 40-12-14.1 (1971).
101. N.J. REV. STAT. § 9:7-4 (1970).
102. CONN. GEN. STAT. § 17-51(2) (1975).
103. FLA. STAT. ANN. § 63.207 (West 1969).
104. MINN. STAT. § 257.06 (1960).
105. N.C. GEN. STAT. § 110.52 (1972); TENN. CODE ANN. § 14-1508 (1973).
106. VA. CODE § 63.1-207.1 (1973).
107. FLA. STAT. ANN. § 63.207 (West 1969).
108. MINN. STAT. § 257.06 (1960); NEB. REV. STAT. § 43-215 (1975).
109. *See* notes 1 & 2 and accompanying text *supra*.
110. *See* text accompanying notes 9-28 *supra*.

statutes expressly authorizing interstate placements by courts[111] or executive agencies.[112] A few states, such as Michigan,[113] expressly authorize international placements. Recent judicial decisions have construed statutes that contain no express geographic limitation on placement authority to permit interstate placements.[114] This attitude contrasts with the earlier tendency to construe ambiguous statutes as forbidding placements beyond state boundaries.

Various legal doctrines appear to be available to support out-of-state enforcement of judicial interstate placement orders. Although specific case law is minimal, the doctrines of full faith and credit, comity, and extraterritorial "long-arm" jurisdiction could be invoked to support the legality and enforceability of interstate placement orders.

The majority of states have a statutory basis for administrative regulation of interstate placements in their child importation and exportation laws. Although these statutes appear to have developed in response to legislative concern with informal interstate placements, several[115] seem clearly applicable to official interstate placements.

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111. *See* text accompanying notes 44-51 *supra.*

112. *See* text accompanying notes 57-62 *supra.*

113. *See* note 60 *supra.*

114. *See* note 34 *supra.*

115. Because there has been no judicial construction of the import/export statutes it is unclear whether they are *all* applicable to official interstate placements by courts and executive agencies. *See* text accompanying notes 88-89 *supra.*